IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2175 OF 2004

Peacock Industries Ltd. & Anr. ..Petitioners

versus

Lloyds Finance Limited & Anr. ..Respondents

_____ **WITH**

CRIMINAL WRIT PETITION NO. 2176 OF 2004

Peacock Industries Ltd. & Anr. ..Petitioners
versus
Lloyds Finance Limited & Anr. ..Respondents

WITH

CRIMINAL WRIT PETITION NO. 2309 OF 2004

Peacock Industries Ltd. & Anr. ..Petitioners
versus
Lloyds Finance Limited & Anr. ..Respondents

WITH

CRIMINAL WRIT PETITION NO. 2372 OF 2004

Peacock Industries Ltd. & Anr. ..Petitioners
versus
Lloyds Finance Limited & Anr. ..Respondents

WITH

CRIMINAL WRIT PETITION NO. 2508 OF 2004

Peacock Industries Ltd. & Anr. ..Petitioners
versus
Lloyds Finance Limited & Anr. ..Respondents

Ms. M. S. Shah i/b. Niranjan & Co. for the Petitioners.

Mr. G. N. Pandit for the Respondent No. 1.

Mrs. V. R. Bhosale, APP for the State in Writ Petition No. 2175 of 2004.

Mr. V. B. Konde-Deshmukh, APP for the State in Writ Petition No. 2176 and 2508 of 2004.

Mr. D. S. Mhaispurkar, APP for the State in Writ Petition No. 2309 of 2004.

Mr. S. R. Borulkar, P.P. for the State in Writ Petition No. 2372 of 2004.

CORAM : D. G. DESHPANDE, J.

DATE : 1ST AUGUST, 2006

P.C. :

1. Heard Counsel for the Petitioners, Respondent No.1 and learned APP for the State.

2. The above petitions have been filed by the petitioners - Company challenging the issue of process under Section 138 of the Negotiable Instruments Act. The main contention of the Petitioenrs is that it is declared as a Sick Company. Same issue was raised before the **Division Bench of this Court (D. G. Deshpande and S. A. Bobde) in Criminal Writ Petition No. 1434 of 2006, wherein Judgment of Supreme Court reported in (2002)**

2 Supreme Court Cases 745 Kusum Ingots & Alloys Ltd., vs. Pennar Peterson Securities Ltd. & Ors., is referred. The same judgment of the Supreme Court was relied upon independently by the counsel for the complainants.

3. Both the judgments i.e. Judgment of this Court (D. G. Deshpande and S. A. Bobde, JJ.) in Criminal Writ Petition No. 1434 of 2006 Omesh Keshav Karnik vs. The Board of Industrial and Financial Reconstruction & Ors. and the Judgment of the Supreme Court reported in (2002) 2 Supreme Court Cases 745 Kusum Ingots and Alloys Ltd. vs. Pennar Peterson Securities Ltd. & Ors., were shown to the counsel for the Petitioner and it was pointed out to her that whatever their contentions and defences, the only option available to them is to place the relevant material in this regard before the learned Magistrate before whom the cases are pending and the Magistrate should examine the matters, keeping in mind the discussions made in the said Judgments.

4. In view of this, all the petitions are disposed of. Parties to appear before the

Magistrate on 21.8.2006. Rule made absolute accordingly in the above petitions.

5. With the above Petitions, Writ Petition Nos. 2506, 2507, 2311 and 2312 of 2004 are tagged and are on board, but no one is present for the Respondent No.1, therefore these Petitions are separated.

(D.G. DESHPANDE, J.)